

[3410-11]

**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**Kaibab National Forest; Arizona; Uranium Exploratory Drilling Project**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

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**SUMMARY:** The USDA Forest Service is preparing an Environmental Impact Statement (EIS) to consider and disclose the effects of proposed exploratory drilling for uranium on National Forest System (NFS) land. The proposed exploratory drilling project would occur on mining claims held by VANE Minerals, Inc. and Uranium One (with all exploratory drilling to be completed by VANE Minerals, Inc.) in the Tusayan Ranger District, Kaibab National Forest within Townships 27, 28, 29 and 30 North, Ranges 2, 3, 4 and 5 East, Gila and Salt River Meridian, Coconino County, Arizona. Exploration is proposed by VANE Minerals, Inc. to determine whether uranium deposits exist on these mining claims. A total of 25 drill sites are planned by VANE Minerals, Inc. Shallow drill holes would be drilled to determine whether or not “breccia pipes” occur at the site. Breccia pipes are the geologic formations found in the Colorado Plateau region that can contain uranium minerals. Deep drill holes would be drilled to confirm the presence and extent of the breccia pipes and to gather additional information regarding the uranium concentrations found in these pipes. This EIS will include analyses and will disclose the potential environmental effects for future exploratory uranium drilling and accompanying ground-disturbing activities at the seven sites

that were part of the VANE project challenged in *Center for Biological Diversity v. Stahn*, Civ. No. 08-8031-PCT-MHM (D. Ariz.).

**DATES:** Comments on this proposal must be received by the Kaibab National Forest (Forest) within 30 days following the publication of this notice in the Federal Register. The Draft EIS (DEIS) for the VANE Minerals Uranium Exploratory Drilling Project (Project) is expected to be available for public review in March 2009. At that time, the Environmental Protection Agency will publish a Notice of Availability (NOA) of the DEIS in the Federal Register. The NOA will begin a period of public review that will extend 45 days from the date of publication of the NOA in the Federal Register. The Final EIS (FEIS) and a Record of Decision (ROD) are scheduled to be completed in December 2009.

**ADDRESSES:** Written comments on this notice may be mailed or hand-delivered to Kaibab National Forest, ATTN: VANE Minerals Uranium Exploratory Drilling Project, 800 S. 6<sup>th</sup> St., Williams, AZ 86046. Comments may also be submitted by facsimile to (928) 635-8208 and by electronic mail (e-mail) to [comments-southwestern-kaibab@fs.fed.us](mailto:comments-southwestern-kaibab@fs.fed.us). E-mail and facsimile comments must include the words “VANE Minerals Uranium Exploratory Drilling Project.”

**FOR FURTHER INFORMATION CONTACT:** For further information on the VANE Minerals Uranium Exploratory Drilling Project (Project), please contact Tom Mutz, Lands and Minerals Staff Officer, in writing at Williams and Tusayan Ranger Districts, 742 S. Clover Rd., Williams AZ 86046 or by telephone at (928) 635-5600. Questions regarding the Forest Service NEPA process may be directed to Alvin Brown, Forest NEPA Coordinator, at 800 S. 6<sup>th</sup> St., Williams, AZ 86046 and telephone (928) 635-8200.

**SUPPLEMENTARY INFORMATION:** The information presented in this notice is included to help reviewers determine if they are interested in or potentially affected by the proposed action.

**Purpose and Need for Action**

In 2006, VANE Minerals, Inc. submitted a Plan of Operations to the Forest Service to drill exploration holes for uranium at a total of ten (10) sites within the Tusayan Ranger District, Kaibab National Forest. A categorical exclusion from documentation under the National Environmental Protection Act (NEPA) was completed in December 2007, and the Forest Service approved VANE Minerals, Inc.'s plan to drill on seven (7) of the ten (10) sites, in areas accessible by Forest Service roads. Exploratory drill operations began in March 2008, and one site was completed.

A lawsuit was filed against the agency's use of a categorical exclusion and a Preliminary Injunction (PI) was ordered on further uranium exploratory drilling. The original agency decision has been withdrawn and an environmental impact statement will be completed on the balance of the original ten (10) sites (one site had exploratory drilling on it and was rehabilitated before the PI was instituted by the court), plus additional proposed sites VANE Minerals, Inc. submitted to the Forest Service in 2007.

The agency's purpose is to analyze the proposals from VANE Minerals, Inc., and any reasonable alternatives, including any mitigation measures to protect the surface resources in the areas of exploratory drilling in order to approve a plan of operations for exploration. The agency's need for action is based on statutes and policy that govern mining on NFS land.

Most NFS land is subject to the location of certain minerals under the Mining Law of 1872, as amended (30 U.S.C. 21-54, et seq.), and the directives in Forest Service Manual

2800. Prospecting, locating and developing the mineral resources on NFS land are also subject to other rules and regulations. These include, but are not limited to, the 1897 Organic Administration Act, the 1960 Multiple-Use Sustained-Yield Act, the 1970 Mining and Minerals Policy Act, and Regulations at Title 36, Code of Federal Regulations, part 228A which sets forth rules and procedures governing the use of NFS lands in conjunction with operations authorized by general mining laws.

### **Proposed Action**

The Forest Service proposes to authorize VANE Minerals, Inc. to perform exploratory drilling at the 25 drill sites proposed. This Proposed Action would constitute exploratory drilling only. No mining extraction or transporting of uranium minerals for processing would be contemplated or permitted by this proposal.

### **Public Involvement**

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. The Forest received several comments during the categorical exclusion analysis in 2007 which will be considered in this analysis. The Forest Service encourages the public to express issues, concerns, and suggestions they may have about this proposed action. Comments should be directly related to issues associated with the proposed action, rather than general advocacy of or opposition to the project, to best assist us in the NEPA analysis. Although comments are welcome at any time during this NEPA analysis, they will be most useful to us if they are received within 30 days following the publication of this notice.

### **Responsible Official**

The Forest Supervisor for the Kaibab National Forest of the Southwestern Region of

the USDA Forest Service is the Responsible Official.

### **Nature of Decision To Be Made**

The decision to be made is what plan of operations to approve for exploration, including any requirements for surface resource protection. VANE Minerals, Inc. has a statutory right to explore for locatable minerals under the 1872 Mining Law.

### **Early Notice of Importance of Public Participation in Subsequent Environmental Review**

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register. The Forest Service believes, at this early state, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after the completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9<sup>th</sup> Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can

meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

/s/ Michael R. Williams

Michael R. Williams  
Forest Supervisor

October 2, 2008

(Date)